Case Citation: (2026) taxcode.in 1046 HC
2026:PHHC:071638-DB

**Sr. No.127**

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**
**CWP-36104-2025 (O&M)**
**Date of Decision : 07.05.2026**

M/s Usha Industries (India)

…Petitioner

Versus

Union of India and others …Respondents

**CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL**
**HON'BLE MS. JUSTICE LAPITA BANERJI**

Present : Mr. Sholab Arora, Advocate,
for the petitioner.

Mr. Ajay Kalra, Senior Standing Counsel
for the respondent-Union of India.

Mr. Saurabh Kapoor, Additional Advocate General, Punjab.

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**DEEPAK SIBAL, J. (Oral)**

This petition is directed against order dated 28.08.2025, passed under Section 74 read with Rule 142 (5) of Punjab GST Act, 2017/Central GST Act, 2017 and Section 20 of the Integrated GST Act, 2017, pertaining to the tax period April 2020- March 2021.

2. The petitioner is a partnership firm based in Ludhiana and is engaged in the business of manufacturing and export of readymade garments.

3. A notice dated 18.11.2024, under Rule 142(1A) of the Central Goods and Services Tax Rules, 2017 (for short, the 2017 Rules) in the form of DRC-01A was served upon the petitioner through which the petitioner was granted an opportunity to show cause as to why liability under Section 74(5) of CGST/SGST/IGST/CESS Act-2017 be not imposed upon it. Supporting evidence was attached along with the said notice.



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4. The petitioner did not file any reply to such notice.

5. What followed was another notice in the form of DRC-01 dated 10.12.2024. Along with such notice, a summary of the show cause notice was attached. The petitioner filed a reply dated 19.02.2025 after which the petitioner was granted opportunity of personal hearing. At the time of personal hearing, on the request of counsel for the petitioner, details of the petitioner's suppliers whose GST registration had been cancelled at the time when the petitioner claimed to deal with them were again supplied and thereafter, on request made by learned counsel for the petitioner, to respond to such information, the matter was adjourned. On the adjourned date learned counsel appearing for the petitioner prayed for another opportunity to respond which opportunity was granted by the adjudicating authority but no response was filed.

6. In the light of the above, the adjudicating authority concluded that the petitioner had claimed ITC on the basis of non genuine transactions. Accordingly, through the impugned adjudication order dated 28.08.2025 (Annexure P-4) payable GST dues, along with penalty and interest were demanded from the petitioner.

7. Learned counsel for the petitioner submitted that the impugned adjudication order dated 28.08.2025 is liable to be set aside because the show cause notice which preceded it was vague; even if the contents of the said show cause notice are accepted, though vehemently denied, even then the case of the petitioner would not be covered under Section 74 of the 2017 Act as no fraud by the petitioner is made out; thus, the impugned adjudication order has been passed without jurisdiction and therefore, should be quashed by this Court in the exercise of its writ jurisdiction.



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8. Per contra, learned State counsel argued that the present petition under Article 226 of the Constitution of India should not be entertained because under Section 107 of the 2017 Act the petitioner had an efficacious remedy of filing of a statutory appeal against the impugned order; even on merits, the petitioner had no case as details of fraudulent evasion of tax by the petitioner had duly been brought to its notice not only through the intimation initially sent to the petitioner through DRC-01A dated 18.11.2024 but also through the show cause notice dated 10.12.2024 as also at the time of hearing of the matter but in spite of the same the petitioner did not file a worthwhile response and therefore, the adjudicating authority rightly passed the order under challenge.

9. Learned counsel for the parties have been heard.

10. Section 74 of the 2017 Act along with Explanation 2, which was applicable at the relevant time, reads as follows:-

> "***Section 74***. *Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any willful- misstatement or suppression of facts.-*
> *(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.*
> *(2) The proper officer shall issue the notice under sub-section (1) at least six months prior to the time limit specified in sub-section (10) for issuance of order.*
> *(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.*



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*(4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under subsection (1) are the same as are mentioned in the earlier notice.*

*(5) The person chargeable with tax may, before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.*

*(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.*

*(7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.*

*(8) Where any person chargeable with tax under sub-section (1) pays the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.*

*(9) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.*

*(10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.*

*(11) Where any person served with an order issued under sub-section (9) pays the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.*

*xxx xxx xxx*

***Explanation 2** For the purposes of this Act, the expression 'suppression' shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to*



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*furnish any information on being asked for, in writing, by the proper officer."*

11. As per the afore quoted provision, where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilized by reason of fraud or any wilful-misstatement or suppression of facts to evade tax, after service of notice to the concerned assessee, such assessee can be proceeded against under Section 74 of the 2017 Act. Explanation 2 to Section 74 which existed on the statute book at the relevant time, further provides that suppression shall mean non-declaration of facts or information which an assessee is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.

12. In the case in hand, intimation was sent to the petitioner in the form of DRC-01A dated 18.11.2024 bringing to the petitioner's notice that the dealings by the petitioner were with entities whose GST registration stood cancelled and therefore, the petitioner had fraudulently claimed ITC with regard to such transactions. The table of the fake suppliers of the petitioner was also served upon it which is as under:-

**Details of ITC claimed from cancelled dealers** **Date 18-11-2024**

**GSTIN 03AAAFU2716M1ZA** **FY 2020-21**
**Name USHA INDUSTRIES (INDIA)**

**Amount in Rupees**

| S.No. | Seller Name | Seller GSTIN | Cancelled Date | Month | SGST/CGST | IGST/CESS | Total |
|---|---|---|---|---|---|---|---|
| 1 | CLASSY WEARS BLUD | 03AAOFC6002G1ZW | 14/07/2019 | May, 2020 | 2238244<br>223844 | 0 | 4476488 |
| 2 | JARNAIL SINGH | 03GSPPS7403Q2ZU | 21/10/2019 | Jun, 2020 | 792999<br>792999 | 0 | 1585998 |



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| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 3 | RAJAN ARORA | 03ABIPA5231E4ZD | 31/03/2020 | Jun, 2020 | 18350<br>18350 | 0 | 36700 |
| 4 | WINDSOR WAY APPARELS | 03AADFW2021N1ZD | 05/12/2019 | Jul, 2020 | 38772<br>38772 | 0 | 77544 |
| 5 | WICKED STITCH | 03AADFW2020P1ZA | 24/06/2019 | Jul, 2020 | 43080<br>43080 | 0 | 86160 |
| 6 | SEEMA JAIN | 03ABAPJ4474C2Z7 | 01/08/2019 | Jul, 2020 | 43080<br>43080 | 0 | 86160 |
| 7 | RED WIND EXIM | 03AAZFR9413M1ZG | 03/12/2019 | Jul, 2020 | 47388<br>47388 | 0 | 94776 |
| 8 | PEPPER ST BLVD | 03AAXFP6081H1ZT | 04/12/2019 | Jul, 2020 | 38772<br>38772 | 0 | 77544 |
| 9 | LUSH CLOTHING CO | 03AIFL3287C1ZK | 21/11/2019 | Jul, 2020 | 38772<br>38772 | 0 | 77544 |
| 10 | FREESTYLE BLVD CO | 03AAGFF5291E1ZO | 24/06/2019 | Jul, 2020 | 43080<br>43080 | 0 | 86160 |
| 11 | ANURAG AGGARWAL | 03AFLPA3179A1Z2 | 01/08/2020 | Aug, 2020 | 3288182<br>3288182 | 0 | 6576364 |
| 12 | RAJAN ARORA | 03ABIPA5231E4ZD | 31/03/2020 | Sep, 2020 | -18348<br>-18348 | 0 | -36696 |
| 13 | ANURAG AGGARWAL | 03AFLPA3179A1Z2 | 01/08/2020 | Sep, 2020 | 467424<br>467424 | 0 | 934848 |
| 14 | NEERU JAGGI | 03BEAPJ5199G1ZL | 02/03/2020 | Sep, 2020 | 182940<br>182940 | 0 | 365880 |
| 15 | ASHWANI KUMAR BANSAL | 03EFGPB3439M1ZI | 14/12/2019 | Sep, 2020 | 1651133<br>1651133 | 0 | 3302266 |
| 16 | JASVIR KUMAR | 03GFEPK5532L1ZD | 31/05/2019 | Oct, 2020 | 157953<br>157953 | 0 | 315906 |
| 17 | ASHWANI KUMAR BANSAL | 03EFGPB3439M1Z1 | 14/12/2019 | Oct, 2020 | 371335<br>371335 | 0 | 742670 |
| 18 | Rainbow Knit Fab | 03ABBFR1965P1ZV | 01/07/2020 | Oct, 2020 | 974912<br>974912 | 0 | 1949824 |
| 19 | RED WIND EXIM | 03AAZFR9413M1ZG | 03/12/2019 | Oct, 2020 | 1614298<br>1614298 | 0 | 3228596 |
| 20 | PEPPER ST BLVD | 03AAXFP6081H1ZT | 04/12/2019 | Oct, 2020 | 1434931<br>1434931 | 0 | 2869862 |
| 21 | Bluewaters India | 03AAWFB1878R1ZK | 01/07/2020 | Oct, 2020 | 468925<br>468925 | 0 | 937850 |
| 22 | Jiya Knitwears | 03AAQFJ0482M1Z2 | 01/07/2020 | Oct, 2020 | 959789<br>959789 | 0 | 1919578 |



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| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 23 | LUSH CLOTHING CO | 03AAIFL3287C1ZK | 21/11/2019 | Oct, 2020 | 1686044<br>1686044 | 0 | 3372088 |
| | | | | Total | 16582055<br>16582055 | 0<br>0 | 33164110 |

13. To the afore intimation, the petitioner failed to respond.

14. Thereafter, a show cause notice dated 10.12.2024, in the form of DRC-01, was served upon the petitioner which also contained details on which basis whereof such show cause notice had been issued. The petitioner filed a reply to the same which we find to be vague as along with such reply the petitioner did not append any supporting document in the form of invoices, e-way bills, bank transaction proofs, account ledgers, weightment slips etc.

15. Nonetheless, during the course of personal hearing, on the request made by learned counsel for the petitioner, the adjudicating authority again provided details of the petitioner's alleged suppliers whose GST registration had been cancelled. On receipt of such information, on the request of learned counsel for the petitioner, time was granted, not once but twice, for the petitioner to respond but no written or oral response to rebut the supplied information was furnished.

16. Thus, in spite of grant of several opportunities, the petitioner failed to provide any worthwhile response with regard to the petitioner's fraudulently claiming of input tax credit through dealings which were not genuine. Despite the details in this regard, having been brought to the petitioner's notice, no rebuttal evidence in the form of invoices, e-way bills, bank transactions, account ledgers, slips etc. were produced by the petitioner. That being so, the case of the petitioner would come under Section 74 of the 2017 Act as it would be a case of suppression in terms of



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Explanation 2 to Section 74 of the 2017 Act, which explanation did exist on the statute book at the relevant time, the validity of which has not even been questioned by the petitioner.

17. In the light of the above, the respondent-authorities had rightly passed the adjudication order dated 28.08.2025 requiring the petitioner to deposit GST dues payable by it, along with applicable interest and penalty.

18. Dismissed.

**(DEEPAK SIBAL)**
**JUDGE**

**(LAPITA BANERJI)**
**JUDGE**

**May 07, 2026**
vandana

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No



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